

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

SEP 24 1992

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Establishment of an Advisory Committee) CC Docket No. 92-166
to Negotiate Regulations Defining the)
Technical Rules for the Mobile)
Satellite Service in the 1610-1626.5)
and 2483.5-2500 MHz Bands)

REPLY AND OPPOSITION

Constellation Communications, Inc. ("Constellation"), by its attorneys, submits this "Reply and Opposition" to comments and applications filed in response the Commission's Public Notice, DA 92-1085 (released August 7, 1992) ("Notice"), in the above-captioned proceeding. By that Notice, the Commission requested comments on its proposal to establish an Advisory Committee to negotiate regulations defining the technical rules appropriate to the provision of mobile satellite services ("MSS") in the 1610-1626.5 MHz and 2483.5-2500 MHz bands, and provided an opportunity for parties not identified in the notice to file applications for membership in that committee.

I. The Commission Should Not Expand Committee Membership Beyond The Parties Specifically Identified In The Notice

Constellation is one of five applicants who filed applications on or before the June 3, 1991 cut-off date for authority to construct and operate a low earth orbit ("LEO") satellite system in the 1610-1626.5 MHz and 2483.5-2500 MHz bands

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allocated to the radiodetermination satellite service ("RDSS"). As the Commission recognized in the Notice, Constellation is therefore entitled to membership in the committee.

To date, six additional parties have requested to participate in the committee and negotiated rulemaking: Boeing Commercial Airplane Group ("Boeing"), Celsat, Inc. ("Celsat"), COMSAT Mobile Communications Division ("Comsat"), Aero Products Division of Litton Systems Inc. ("Litton"), Rockwell International ("Rockwell"), and Wireless Cable Association International, Inc. ("WCA"). Constellation opposes all of these applications for membership in the committee. None of these parties has identified a specific matter that requires its participation, or a direct interest in negotiating the issues to be addressed in the rulemaking.

For example, WCA wants to participate because its members operate facilities in the 2500-2690 MHz band, which is adjacent to the 2483.5-2500 MHz band to be used for LEO satellite systems. However, out-of-band interference is not an issue in the current rulemaking, and WCA provides no technical basis for concluding that the Commission's current regulations on out-of-band emissions, e.g. Section 25.202(g), are inadequate.

Similarly, Rockwell is a manufacturer and licensee for mobile earth station equipment in adjacent MSS bands and has not provided any technical basis for why its operations could be

affected by operations of the LEO MSS equipment in the RDSS bands. Thus, Rockwell has no direct interest in this proceeding.

Litton's interest is based on its interest in the Russian Glonass system which operates in part of the 1610-1626.5 MHz band being addressed in this proceeding. However, protection of the Russian Glonass system is afforded by footnote RR 731X adopted by the 1992 World Administrative Radio Conference ("WARC"), and Litton has not made any technical showing that this international radio regulation is insufficient to protect the Glonass system. In any event, coordination between LEO satellite systems and the Glonass system will be conducted by the administrations of the United States and Russia, and thus is outside of the scope of this proceeding.

Boeing's interest in this proceeding is unclear because only a cover letter has been found in the Commission's files. However, in any event, Boeing's interests do not warrant membership in the committee for the same reason cited above for Rockwell and Litton. Moreover, even if the Commission were to determine that aviation interests were somehow affected by these proceedings, under no circumstances should there be more than one entity representing aviation interests.

Comsat states that its participation is necessary to protect "international" interests and "safety issues," presumably based on its role as U.S. Signatory to INMARSAT. However, this negotiated rulemaking proceeding is a domestic rulemaking and

licensing proceeding. Comsat is not an applicant for a LEO satellite system before the Commission and INMARSAT's interests vis-a-vis United States systems are fully covered by the consultations specified in Article 8 of the INMARSAT Convention and by the coordination procedures set forth in the international Radio Regulations (e.g. 1992 WARC Resolution COM5/8 and Articles 11 and 13). Comsat has not shown why those procedures are inadequate to protect Comsat's interests. Similarly, Comsat's concern's over safety issues do not warrant membership in the committee because the MSS safety services provided by Comsat are outside of the RDSS bands being considered for LEO systems and operation of the Glonass system is the responsibility of Russia, not Comsat.

With respect to Celsat, the Commission has already rejected Celsat's proposals with respect to the RDSS bands, and Celsat did not file a satellite system application to use the RDSS bands by the June 3, 1991 cut-off date. Thus, Celsat is not entitled to participate in the committee. Any decision taken by the Commission in the RDSS bands will not affect the Commission's consideration of Celsat's remaining proposals as they apply to other bands allocated to MSS by the 1992 WARC because those proposals will be addressed in other proceedings.

Constellation previously expressed concerns over the participation of the AMSC Subsidiary Corporation ("AMSC") in this

proceeding in its September 14, 1991 "Comments," and will not repeat them here.

II. Some Of The Procedural Proposals Advanced In The Committee Would Not Facilitate The Work Of The Committee

Parties filing Comments in response to the Notice made various procedural suggestions relating to the conduct of the committee and the negotiated rule making process. These parties include Ellipsat Corporation ("Ellipsat"), Loral Qualcomm Satellite Services, Inc. ("Loral"), Motorola Satellite Communications, Inc. ("Motorola"), and TRW, Inc. ("TRW"). Most of these proposals are meritorious and warrant further consideration by the Commission and the parties to this proceeding. However, there are a few proposals to which Constellation objects.

Motorola, as well as Ellipsat, Loral and TRW, urge the Commission to reduce the amount of time scheduled for the rulemaking. In particular, Motorola would have the proceedings terminate as early as January 15, 1993, or even sooner if it becomes apparent that there is no likelihood of consensus. While Constellation seeks an early resolution of this proceeding, it also recognizes the logistical problems presented by the November/December/January/holiday periods, the logistical problems for west coast participants, and the limited staff resources of the Commission. As a result, the proposed schedule

given in the Notice is not unreasonable given the difficulty of the technical issues that will be addressed.

Constellation also objects to Motorola's proposals to include alternative spectrum proposals in the work plan. This is a thinly veiled attempt to continue its claim for an exclusive, worldwide frequency assignment of the 1616-1626.5 MHz band for the Iridium system by dragging into the committee's work plan consideration of its unworkable band segmentation proposals that would have the other LEO systems operate in bands not allocated for LEO MSS services by the 1992 WARC. Moreover, by including additional bands outside of the RDSS bands, Motorola opens up the opportunity for allowing a large expansion of the committee membership and prolonging the work of the committee with extraneous issues not directly related to the RDSS bands. Such a result is inconsistent with Motorola's opposition to expanding membership in the committee and its proposal that the Commission impose an impractically early date for the completion of the work of the committee.

Constellation also objects to Motorola's insistence on a common system approach by the applicants proposing code division multiplex ("CDMA") systems in advance of the first committee meeting. Certainly, examination of the technical parameters of the CDMA systems and the development of any necessary technical guidelines for compatibility will be part of the work plan of the committee. However, it is presumptuous for

Motorola to insist that all of this work be completed before the first committee meeting.

Conclusion

Constellation supports the use of a negotiated rulemaking procedure to establish technical and service rules to govern the licensing of its proposed LEO satellite system in the RDSS bands, and will actively participate in the proposed committee to seek a prompt and successful resolution of this proceeding. However, Constellation opposes the additional requests for participation in the committee and negotiated rulemaking and some of the proposals for conducting the proceedings as discussed above.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Robert A. Mazer, hereby certify that the copies of the foregoing Comments were served by first-class mail, postage prepaid, this 24th day of September 1992, on the following persons:

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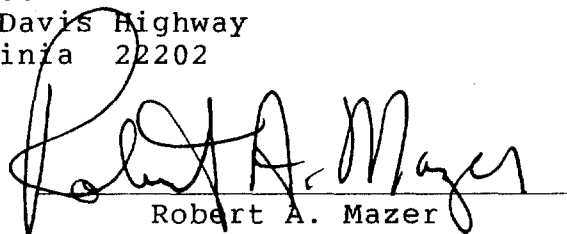
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